

**CUYAHOGA COUNTY
SEXUAL ASSAULT RESPONSE
SUGGESTED GUIDELINES**

These sexual assault response guidelines are offered for use by law enforcement agencies responsible for investigating and reporting incidents of sexual assault within their jurisdiction and may be used in conjunction with the law enforcement agency's existing general operating procedures. It is not intended to alter the independent authority of law enforcement agencies to conduct the investigation of a sexual assault complaint within their jurisdiction nor does it alter the authority of a county prosecutor pursuant to ORC 309.08 to inquire into crimes committed within the county.

I. PURPOSE

The purpose of this policy is to create awareness, provide direction and establish procedures for investigating and reporting incidents of sexual assault.

II. POLICY

This department is committed to responding, and rendering assistance, to victims of sexual assault. Officers are made aware of the traumatic impact, both physically and emotionally, sexual assault has on victims. Recognizing this, when responding to these incidents they should perform their duties in a respectful, non-judgmental manner. All complaints of sexual assault reported to this department should be documented.

III. DEFINITIONS

A. Sexual Assault – refers to an attempt or commission of a crime involving sexual contact, conduct or activity as described in Ohio Revised Code (O.R.C.), Chapter 2907.01. Sexual assault generally constitutes a felony when one of the following conditions exists:

A.1. For the purpose of preventing resistance, the offender substantially impairs the other person's judgment or control by administering any drug, intoxicant, or controlled substance to the other person surreptitiously or by force, threat of force, or deception.

A.2. The other person is less than thirteen years of age, whether or not the offender knows the age of the other person.

A.3. The other person's ability to resist or consent is substantially impaired because of a mental or physical condition or because of advanced age, and the offender knows or has reasonable cause to believe that the other person's ability to resist or consent is substantially impaired because of a mental or physical condition or because of advanced age.

A.4. The offender engages in sexual activity with another person when purposely compelling the other person to submit by force or threat of force.

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IV. PROCEDURES

A. Dispatcher or Call-Taker Responses

A.1. When a caller reports a sexual assault, communications personnel should follow standard emergency response procedure to include;

A.1.a) Establishing victim safety

A.1.b) Properly prioritizing the call

A.1.c) Dispatching medical assistance

A.1.d) Obtaining suspect(s) description

A.1.e) Inquiring about weapons

A.1.f) Gathering any history of violence

A.2. If appropriate, ask whether the victim has bathed, douched, urinated or made other physical changes. If not, request they not do so to avoid compromising critical evidence.

A.3. Reassure the caller an officer is responding to provide assistance

B. Initial Officer Response

B.1. Emergency Response

B.1.a) Immediately respond to incidents involving sexual assault

B.1.b) Provide assistance and address any immediate safety concern including providing medical attention, as necessary

B.1.c) Secure the crime scene to ensure evidence is not lost, changed, or contaminated

B.1.d) Remain watchful for threats, suspects, witnesses, or objects involved in the crime

B.2. Assisting the Victim

B.2.a) Be aware the victim's behavior may range widely, from hysteria to calmness, due to the effects of trauma. There is no one typical reaction

(B.2.a.1) Refrain from making judgments based solely on a victims' actions or behavior

B.2.b) Remain professional, unbiased and empathetic to victims

B.2.c) Display understanding, patience, and respect for the victim's dignity and attempt to establish trust and rapport

B.2.d) If the victim wishes to speak with an officer of the same sex an attempt should be made to accommodate

B.2.e) Provide victims with information on victim advocate services available through Cleveland Rape Crisis Center at (216) 619-6192

B.3. Evidence Collection Issues

B.3.a) Verify the location(s) of the crime and, if available, request investigators, or evidence technicians to assist in processing the scene

(B.3.a.1) The crime scene should be properly diagrammed, photographed or videotaped

(B.3.a.2) Display sensitivity if photographing or videotaping the victim to document injuries

B.3.b) Identify the clothes worn at the time of the assault. If the victim has changed, secure the items worn during the assault

B.3.c) Recovered evidence should be properly identified, photographed or videotaped, marked, labeled, and packaged (See Attachment "A")

B.3.d) Protect the integrity of evidence and ensure the chain of custody by following current department policy and procedure

B.4. Identify and Locate Witnesses and Suspects

B.4.a) Based on the victim's emotional and physical state, questions concerning the assault and description and location of the suspect may have to be limited.

B.4.b) The procedure for suspect identification is described in Section F3(a)(5)

B.4.c) Officers should attempt to identify and interview any potential witnesses, bearing in mind there may be multiple crime scenes.

d) Identify and interview all witness(es) to whom the victim has disclosed the sexual assault.

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B.5. Documentation

B.5.a) Any officer interviewing a witness or suspect, identifying evidence, or processing a crime scene will document in writing the actions they took on either an initial or supplemental report form, as appropriate.

C. Forensic Examinations for Victims of Sexual Assault

C.1. Investigating Officer Actions

C.1.a) Inquire whether the victim will consent to a forensic examination

C.1.b) Inform the victim any cost incurred in conducting the medical examination will be paid out of the reparations fund pursuant to ORC 2907.28

C.1.c) Ask the victim whether there is anyone they want called or notified, regarding the examination, and try to facilitate this contact

C.1.d) Address any differences in ability of the victim, such as communication or mobility, and attempt to notify victim advocates of any special needs

C.1.e) Arrange transportation of the victim to a designated medical facility, if warranted and the victim consents (See Attachment “B”)

C.1.f) Request a signed release (HIPAA) from the victim for access to medical records (See Attachment “C”)

C.1.g) If the victim declines to undergo a forensic exam encourage them to seek medical attention, including testing for pregnancy and sexually transmitted infections, at a later time

C.2. Coordination with Forensic Examiner

C.2.a) Maintain physical separation from the forensic examination. Officers should not direct any medical treatment including the sexual assault examination

C.2.b) Accept the sexual assault evidence kit from the medical staff after it is properly sealed and labeled

**(C.2.b.1) Make the proper notation on the kit
acknowledging receipt**

(C.2.b.2) **Deliver the kit to a crime laboratory in a timely manner or place it in appropriate storage until it can be delivered to a crime laboratory**

C.2.c) Document acceptance and disposition of the sexual assault kit in the report

(C.2.c.1) **(**Effective 5/2012 – Utilize the Cuyahoga County Prosecutor’s Office, Sexual Assault Examination Kit, Chain of Custody Website to document all receipt and delivery of examination kits).**

C.2.d) Include a copy of the forensic exam, if available, and a summary of the findings in the report

C.3. Drug/Alcohol-Facilitated Sexual Assault Considerations

C.3.a) If a drug/alcohol-facilitated sexual assault is suspected, it is critical to obtain a urine/blood sample from the victim as soon as possible

C.3.b) Reassure victims the department’s priority is to conduct a thorough investigation of sexual assaults rather than prosecute victims for misdemeanor substance abuse violations

C.3.c) Because reporting in most sexual assaults is delayed, laboratories capable of testing urine/blood samples for very low levels of substances commonly used to facilitate sexual assault are essential (See Attachment “D”)

C.4. Anonymous Sexual Assault Evidence Kits

C.4.a) Victims seeking medical treatment for sexual assault, including completion of a sexual assault evidence kit, may request to remain anonymous to law enforcement

C.4.b) Medical facilities will contact the law enforcement agency where the assault took place, if known, or the law enforcement agency where the victim resides, if unknown, to take possession of evidence kits

C.4.c) Officers should handle the evidence kit as they would any other property turned over to the department for safekeeping

(C.4.c.1) **Officers should follow current department policy and procedure on reporting, chain of custody and property**

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(C.4.c.2) The evidence kit should remain in storage for the duration of the statute of limitations for the offense of Rape

D. Preliminary Victim Interview

Sexual assault investigations typically include preliminary and subsequent in-depth interviews with the victim. The preliminary interview is primarily intended to establish whether a crime has occurred. Officers should first establish the elements of any crime(s) that occurred.

D.1. Victim Interview Protocol

D.1.a) Secure a private location for the interview free from distractions

D.1.b) Conduct the interview promptly if the victim is able and consents

(D.1.b.1) Proceeding with or conducting a thorough preliminary investigation should not be postponed pending receipt of findings from the sexual assault examination

(D.1.b.2) Investigations involving child victims should be conducted cooperatively with the Cuyahoga County Department of Children and Family Services (CCDCFS) as outlined in the Cuyahoga County Memorandum of Understanding Regarding Child Abuse and Neglect

D.1.c) Inform the victim of the need and importance of full disclosure of any and all drug/alcohol use

D.1.d) Ask the victim what they remember and how they felt

D.1.e) Explain the nature of the preliminary interview and the possible need for follow-up contacts by other professionals such as forensic examiners, detectives, evidence technicians, and prosecutors

D.1.f) The procedure for suspect identification is described in Section F3(a)(5)

D.1.g) Obtain contact information for the victim, including any temporary accommodations

At the conclusion of the initial interview;

D.1.h) If a follow-up detective has been assigned give the victim the detective's contact information

D.1.i) Encourage the victim to contact the detective with any additional information or evidence

D.1.j) Remind the victim visible evidence of injury (e.g. bruising) may appear later, and to contact the detective for additional photographs or other documentation if this occurs

D.1.k) Ensure requests for protection orders are made where indicated

D.1.l) Provide transportation where reasonably possible

D.1.m) Inform the victim about next steps in the investigation

D.2. Arrest and Prosecution Decisions

In the immediate aftermath of a sexual assault, a victim should not be expected or encouraged to make decisions regarding the investigation or charges related to the offense. Officers should not introduce any forms for a victim to sign declining an investigation/prosecution, at this point

E. Protecting Victims' Rights

E.1. Victims should be advised of;

E.1.a) Their rights as a victim of crime pursuant to O.R.C 2930.04 (See Attachment "E")

E.1.b) How to contact police if harassed or intimidated by the suspect(s) or associates

(E.1.b.1) A Threat Assessment is to be included when cases are submitted for prosecution

F. Follow-up Victim Interview

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Prior to a follow-up interview, the detective should attempt to consult with department personnel who responded to the scene, and review all reports. Detectives should preserve and obtain any relevant electronic data such as: 911 calls, cell phone subscriber information, incoming and outgoing calls, cell tower and text messages, or other social networking data

F.1. Follow-up Interview Protocol

F.1.a) Generally, the follow-up interview is conducted once the medical and personal needs of the victim have been met

F.1.b) Barring exigent circumstances requiring an arrest or identification, if the victim is still under the influence of drugs/alcohol, has been injured, or as a result of the assault has not slept, the interview may be delayed

F.1.c) The interview should be conducted in a location that is convenient, accessible, and comfortable for the victim. The investigator should provide or arrange transportation for the victim when needed, if possible

F.2. Setting up the interview

F.2.a) Discuss the purpose and scope of the interview

F.2.b) Review contact information for both the victim and detective and update as needed

F.2.c) Explain the status of the case and address arrest decisions

F.3. Conducting the interview

F.3.a) While conducting the follow-up interview detectives should:

(F.3.a.1) **Allow the victim to describe what happened without interruption**

(F.3.a.2) **Reiterate what was heard for accuracy, recognize new information or developments, and ask questions**

(F.3.a.3) **Clarify any inconsistencies with earlier accounts of the sexual assault in a non-threatening manner**

(F.3.a.4) **Document the victim's actions in response to the attack, the victim's state of mind during the attack, specific statements made by the perpetrator, and the nature of the relationship with the suspect**

(F.3.a.4.a) Explain the need for the victim to provide as much information as possible even if it seems unimportant

(F.3.a.5) If the suspect is unknown to the victim or witness detectives may use the photo array procedure or where “impracticable” the folder system (See Attachment “F”) in following the identification procedure set out in O.R.C. 2933.83 (See Attachment “G”)

(F.3.a.6) Inquire about any circumstances indicating possible use of a substance to facilitate the sexual assault (such as loss of memory, disorientation, severe illness, or hallucinations)

(F.3.a.7) Assist the victim in developing a safety plan, in the event safety concerns exist

(F.3.a.7.a) Encourage the victim to call if the suspect violates any protection order or contacts the victim in any way

F.3.b) Once a thorough follow-up investigation has been completed, the detective should:

(F.3.b.1) Evaluate impounded evidence and determine which items might have probative value based on statements and other information

(F.3.b.2) Submit a lab service request such as DNA, biology, trace, or toxicology based on the assessment of the evidence

(F.3.b.3) Present the case file including forensic results as soon as available to the prosecuting attorney for review, and work with the prosecutor’s office to develop the case

(F.3.b.4) Encourage the victim’s continued support in the investigation, by keeping them aware of future investigative activities that will or may require their involvement

G. Contacting and Interviewing the Suspect

G.1. Investigating officers should follow departmental procedure and state statute to identify the suspect, and in conducting the suspect interview. (See Attachment “G”)

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G.1.a) Notification to CCDCFS regarding interviewing suspects in child abuse cases should be made as outlined in the Cuyahoga County Memorandum of Understanding Regarding Child Abuse and Neglect

G.2. Involvement of a victim in a pretext phone call to the suspect should take into consideration the victim's emotional and physical state. Whenever possible, have a victim advocate present to offer support

G.3. Any verbal statements of a suspect should be memorialized

H. Sexual Assault Forensic Examination for the Suspect

H.1. Protocol for Suspect Examination

H.1.a) When collecting any evidence from the body of a suspect, including clothing or a buccal swab, the method preferred is to obtain a search warrant

H.1.b) If the suspect consents to such evidence collection procedures, a signed written consent form should be used and the police report should document the voluntary consent

Attachment "A"

2933.82 Retention of biological evidence.

(A) As used in this section:

(1)(a) "Biological evidence" means any of the following:

(i) The contents of a sexual assault examination kit;

(ii) Any item that contains blood, semen, hair, saliva, skin tissue, fingernail scrapings, bone, bodily fluids, or any other identifiable biological material that was collected as part of a criminal investigation or delinquent child investigation and that reasonably may be used to incriminate or exculpate any person for an offense or delinquent act.

(b) The definition of "biological evidence" set forth in division (A)(1)(a) of this section applies whether the material in question is cataloged separately, such as on a slide or swab or in a test tube, or is present on other evidence, including, but not limited to, clothing, ligatures, bedding or other household material, drinking cups or containers, or cigarettes.

(2) "Biological material" has the same meaning as in section [2953.71](#) of the Revised Code.

(3) "DNA" has the same meaning as in section [109.573](#) of the Revised Code.

(4) "Profile" means a unique identifier of an individual, derived from DNA.

(5) "Prosecutor" has the same meaning as in section [2935.01](#) of the Revised Code.

(6) "Governmental evidence-retention entity" means all of the following:

(a) Any law enforcement agency, prosecutor's office, court, public hospital, crime laboratory, or other governmental or public entity or individual within this state that is charged with the collection, storage, or retrieval of biological evidence;

(b) Any official or employee of any entity or individual described in division (A)(6)(a) of this section.

(B)(1) Each governmental evidence-retention entity that secures any biological evidence in relation to an investigation or prosecution of a criminal offense or delinquent act that is a violation of section [2903.01](#), [2903.02](#), or [2903.03](#), a violation of section [2903.04](#) or [2903.06](#) that is a felony of the first or second degree, a violation of section [2907.02](#) or [2907.03](#) or division (A)(4) or (B) of section [2907.05](#) of the Revised Code, or an attempt to commit a violation of section [2907.02](#) of the Revised Code shall secure the biological evidence for whichever of the following periods of time is applicable:

(a) For a violation of section [2903.01](#) or [2903.02](#) of the Revised Code, for the period of time that the offense or act remains unsolved;

(b) For a violation of section [2903.03](#), a violation of section [2903.04](#) or [2903.06](#) that is a felony of the first or second degree, a violation of section [2907.02](#) or [2907.03](#) or of division (A)(4) or (B) of section [2907.05](#) of the Revised Code, or an attempt to commit a violation of section [2907.02](#) of the Revised Code, for a period of thirty years if the offense or act remains unsolved;

(c) If any person is convicted of or pleads guilty to the offense, or is adjudicated a delinquent child for committing the delinquent act, for the earlier of the following: (i) the expiration of the latest of the following periods of time that apply to the person: the period of time that the person is incarcerated, is in a department of youth services institution or other juvenile facility, is under a community control sanction for that offense, is under any order of disposition for that act, is on probation or parole for that offense, is under judicial release or supervised release for that act, is under post-release control for that offense, is involved in civil litigation in connection with that offense or act, or is subject to registration and other duties imposed for that offense or act under sections [2950.04](#), [2950.041](#), [2950.05](#), and [2950.06](#) of the Revised Code or (ii) thirty years. If after the period of thirty years the person remains incarcerated, then the governmental evidence-retention entity shall secure the biological evidence until the person is released from incarceration or dies.

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(2) This section applies to evidence likely to contain biological material that was in the possession of any governmental evidence-retention entity during the investigation and prosecution of a criminal case or delinquent child case involving a violation of section [2903.01](#), [2903.02](#), or [2903.03](#), a violation of section [2903.04](#) or [2903.06](#) that is a felony of the first or second degree, a violation of section [2907.02](#) or [2907.03](#) or of division (A) (4) or (B) of section [2907.05](#) of the Revised Code, or an attempt to commit a violation of section [2907.02](#) of the Revised Code.

(3) A governmental evidence-retention entity that possesses biological evidence shall retain the biological evidence in the amount and manner sufficient to develop a DNA profile from the biological material contained in or included on the evidence.

(4) Upon written request by the defendant in a criminal case or the alleged delinquent child in a delinquent child case involving a violation of section [2903.01](#), [2903.02](#), or [2903.03](#), a violation of section [2903.04](#) or [2903.06](#) that is a felony of the first or second degree, a violation of section [2907.02](#) or [2907.03](#) or of division (A)(4) or (B) of section [2907.05](#) of the Revised Code, or an attempt to commit a violation of section [2907.02](#) of the Revised Code, a governmental evidence-retention entity that possesses biological evidence shall prepare an inventory of the biological evidence that has been preserved in connection with the defendant's criminal case or the alleged delinquent child's delinquent child case.

(5) Except as otherwise provided in division (B)(7) of this section, a governmental evidence-retention entity that possesses biological evidence that includes biological material may destroy the evidence before the expiration of the applicable period of time specified in division (B)(1) of this section if all of the following apply:

(a) No other provision of federal or state law requires the state to preserve the evidence.

(b) The governmental evidence-retention entity, by certified mail, return receipt requested, provides notice of intent to destroy the evidence to all of the following:

(i) All persons who remain in custody, incarcerated, in a department of youth services institution or other juvenile facility, under a community control sanction, under any order of disposition, on probation or parole, under judicial release or supervised release, under post-release control, involved in civil litigation, or subject to registration and other duties imposed for that offense or act under sections [2950.04](#), [2950.041](#), [2950.05](#), and [2950.06](#) of the Revised Code as a result of a criminal conviction, delinquency adjudication, or commitment related to the evidence in question;

(ii) The attorney of record for each person who is in custody in any circumstance described in division (B)(5)(b) (i) of this section if the attorney of record can be located;

(iii) The state public defender;

(iv) The office of the prosecutor of record in the case that resulted in the custody of the person in custody in any circumstance described in division (B)(5)(b)(i) of this section;

(v) The attorney general.

(c) No person who is notified under division (B)(5)(b) of this section does either of the following within one year after the date on which the person receives the notice:

(i) Files a motion for testing of evidence under sections [2953.71](#) to [2953.81](#) or section [2953.82](#) of the Revised Code;

(ii) Submits a written request for retention of evidence to the governmental evidence-retention entity that provided notice of its intent to destroy evidence under division (B)(5)(b) of this section.

(6) Except as otherwise provided in division (B)(7) of this section, if, after providing notice under division (B)(5)(b) of this section of its intent to destroy evidence, a governmental evidence-retention entity receives a written request for retention of the evidence from any person to whom the notice is provided, the governmental evidence-retention entity shall retain the evidence while the person referred to in division (B)(5)(b)(i) of this section remains in custody, incarcerated, in a department of youth services institution or other juvenile facility, under a community control sanction, under any order of disposition, on probation or parole, under judicial

release or supervised release, under post-release control, involved in civil litigation, or subject to registration and other duties imposed for that offense or act under sections [2950.04](#), [2950.041](#), [2950.05](#), and [2950.06](#) of the Revised Code as a result of a criminal conviction, delinquency adjudication, or commitment related to the evidence in question.

(7) A governmental evidence-retention entity that possesses biological evidence that includes biological material may destroy the evidence five years after a person pleads guilty or no contest to a violation of section [2903.01](#), [2903.02](#), or [2903.03](#), a violation of [2903.04](#) or [2903.06](#) that is a felony of the first or second degree, a violation of section [2907.02](#), [2907.03](#), division (A)(4) or (B) of section [2907.05](#), or an attempt to commit a violation of section [2907.02](#) of the Revised Code and all appeals have been exhausted unless, upon a motion to the court by the person who pleaded guilty or no contest or the person's attorney and notice to those persons described in division (B)(5)(b) of this section requesting that the evidence not be destroyed, the court finds good cause as to why that evidence must be retained.

(8) A governmental evidence-retention entity shall not be required to preserve physical evidence pursuant to this section that is of such a size, bulk, or physical character as to render retention impracticable. When retention of physical evidence that otherwise would be required to be retained pursuant to this section is impracticable as described in this division, the governmental evidence-retention entity that otherwise would be required to retain the physical evidence shall remove and preserve portions of the material evidence likely to contain biological evidence related to the offense, in a quantity sufficient to permit future DNA testing before returning or disposing of that physical evidence.

(C)(1) The preservation of biological evidence task force established within the bureau of criminal identification and investigation under section [109.561](#) of the Revised Code shall establish a system regarding the proper preservation of biological evidence in this state. In establishing the system, the task force shall do all of the following:

(a) Devise standards regarding the proper collection, retention, and cataloguing of biological evidence for ongoing investigations and prosecutions;

(b) Recommend practices, protocols, models, and resources for the cataloging and accessibility of preserved biological evidence already in the possession of governmental evidence-retention entities.

(2) In consultation with the preservation of biological evidence task force described in division (C)(1) of this section, the office of the attorney general shall administer and conduct training programs for law enforcement officers and other relevant employees who are charged with preserving and cataloging biological evidence regarding the methods and procedures referenced in this section.

Amended by 128th General Assembly File No. 50, SB 58, § 1, eff. 9/17/2010.

Added by 128th General Assembly File No. 30, SB 77, § 1, eff. 7/6/2010.

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Attachment “B”

Sexual Assault Nurse Examiner Programs

Fairview Hospital Emergency Department

18101 Lorain Road

Cleveland, OH 44111

(216) 476-7080

***** also sees pediatric patients**

Hillcrest Hospital Emergency Department

6780 Mayfield Road, North Campus

Mayfield Heights, OH 44124

(440) 312-7890

***** also sees pediatric patients**

MetroHealth Medical Center

2500 MetroHealth Drive

Cleveland, OH 44109-1998

(216) 778-7878

***** sees adult/adolescent patients**

University Hospital – Rainbow Babies and Children’s Hospital

11100 Euclid Avenue

Cleveland, OH 44106

(216)844-3911

*** pediatric patients only

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Attachment "C"

**HIPAA COMPLIANT AUTHORIZATION FOR USE AND DISCLOSURE OF
INDIVIDUAL IDENTIFIABLE HEALTH INFORMATION**

Person/Entity from Whom Records are Requested:

Provider Name ("Provider")

Address, City, State and Zip Code

Patient:

Patient Name

Address

Date of Birth

Information Authorized To Be Disclosed: I authorize the Provider to furnish copies of my entire medical record and all of my individually identifiable health information that may be requested, including records for treatment of psychological, psychiatric or emotional problems, and including:

- | | | |
|---|---|---|
| <input type="checkbox"/> medical reports | <input type="checkbox"/> blood tests | <input type="checkbox"/> radiographic films |
| <input type="checkbox"/> CT scans | <input type="checkbox"/> X-rays | <input type="checkbox"/> MRI films |
| <input type="checkbox"/> prescription records | <input type="checkbox"/> correspondence | <input type="checkbox"/> progress notes |
| <input type="checkbox"/> pathology specimens | <input type="checkbox"/> echocardiographic recordings | <input type="checkbox"/> written statements |
| <input type="checkbox"/> employment records | <input type="checkbox"/> wage records | <input type="checkbox"/> disability records |
| <input type="checkbox"/> medical bills | <input type="checkbox"/> photos | |

and other documents in your possession including records from other providers.

Person To Whom Records Are To Be Disclosed:

(“Requestor”)

Address

Term and Revocation:

This authorization shall be considered as continuing in nature unless and until I revoke it in writing to the Provider and remains in full force and effect until such expiration. This authorization further authorizes the Provider to release to the Requestor any additional records created or obtained by the Provider after the date below. I understand that if I revoke this authorization it will not apply to records and health care information that have already been released before the Provider receives notice of the revocation.

It is expressly understood by me that the Provider is authorized to accept a copy or photocopy of this authorization with the same validity as though an original had been presented to the Provider.

Signature of Patient or Guardian

Date

Version: 6/20/11

Attachment "D"

Toxicology Labs*

Cuyahoga County

Medical Examiner's Office

11001 Cedar Avenue

Cleveland, Ohio 44106

(216) 721-5610

www.coroner.cuyahogacounty.us

AIT Laboratories

2265 Executive Drive

Indianapolis, IN 46241

Phone: (317) 243-3894

Toll-free: (800) 875-3894

Fax: (317) 243-2789

<http://aitlabs.com/>

NMS Labs

3701 Welsh Road

Willow Grove, PA 19090

New Account Inquiries: (866) 522-2206

<http://www.nmslabs.com/services-forensic-DRE%20toxicology/>

***These labs meet the drug panel screening for single dose ingestion.**

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Attachment “E”

2930.04 Information provided by law enforcement agency after initial contact with victim

(A) After its initial contact with a victim of a crime, the law enforcement agency responsible for investigating the crime promptly shall give to the victim, in writing, all of the following information:

- (1) An explanation of the victim's rights under this chapter;
- (2) Information about medical, counseling, housing, emergency, and any other services that are available to a victim;
- (3) Information about compensation for victims under the reparations program in [sections 2743.51 to 2743.72 of the Revised Code](#) and the name, street address, and telephone number of the agency to contact to apply for an award of reparations under those sections;
- (4) Information about protection that is available to the victim, including protective orders issued by a court.

(B) As soon as practicable after its initial contact with a victim of a crime, the law enforcement agency responsible for investigating the crime shall give to the victim all of the following information:

- (1) The business telephone number of the law enforcement officer assigned to investigate the case;
- (2) The office address and business telephone number of the prosecutor in the case;
- (3) A statement that, if the victim is not notified of the arrest of the offender in the case within a reasonable period of time, the victim may contact the law enforcement agency to learn the status of the case.

(C) To the extent that the information required by this section is provided in the pamphlet prepared pursuant to [section 109.42 of the Revised Code](#) or in the information card or other material prepared pursuant to [section 2743.71 of the Revised Code](#), the law enforcement agency may fulfill that portion of its obligations under this section by giving that pamphlet, information card, or other material to the victim.

CREDIT(S)

[\(1995 S 2, eff. 7-1-96; 1994 S 186, eff. 10-12-94\)](#)

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Attachment “G”

2933.81 Electronic recording during custodial interrogation.

(A) As used in this section:

(1) “Custodial interrogation” means any interrogation involving a law enforcement officer’s questioning that is reasonably likely to elicit incriminating responses and in which a reasonable person in the subject’s position would consider self to be in custody, beginning when a person should have been advised of the person’s right to counsel and right to remain silent and of the fact that anything the person says could be used against the person, as specified by the United States supreme court in *Miranda v. Arizona* (1966), 384 U.S. 436, and subsequent decisions, and ending when the questioning has completely finished.

(2) “Detention facility” has the same meaning as in section [2921.01](#) of the Revised Code.

(3) “Electronic recording” or “electronically recorded” means an audio and visual recording that is an authentic, accurate, unaltered record of a custodial interrogation.

(4) “Law enforcement agency” has the same meaning as in section [109.573](#) of the Revised Code.

(5) “Law enforcement vehicle” means a vehicle primarily used by a law enforcement agency or by an employee of a law enforcement agency for official law enforcement purposes.

(6) “Local correctional facility” has the same meaning as in section [2903.13](#) of the Revised Code.

(7) “Place of detention” means a jail, police or sheriff’s station, holding cell, state correctional institution, local correctional facility, detention facility, or department of youth services facility. “Place of detention” does not include a law enforcement vehicle.

(8) “State correctional institution” has the same meaning as in section [2967.01](#) of the Revised Code.

(9) “Statement” means an oral, written, sign language, or nonverbal communication.

(B) All statements made by a person who is the suspect of a violation of or possible violation of section [2903.01](#), [2903.02](#), or [2903.03](#), a violation of section [2903.04](#) or [2903.06](#) that is a felony of the first or second degree, a violation of section [2907.02](#) or [2907.03](#), or an attempt to commit a violation of section [2907.02](#) of the Revised Code during a custodial interrogation in a place of detention are presumed to be voluntary if the statements made by the person are electronically recorded. The person making the statements during the electronic recording of the custodial interrogation has the burden of proving that the statements made during the custodial interrogation were not voluntary. There shall be no penalty against the law enforcement agency that employs a law enforcement officer if the law enforcement officer fails to electronically record as required by this division a custodial interrogation. A law enforcement officer’s failure to electronically record a custodial interrogation does not create a private cause of action against that law enforcement officer.

(C) A failure to electronically record a statement as required by this section shall not provide the basis to exclude or suppress the statement in any criminal proceeding, delinquent child proceeding, or other legal proceeding.

(D)(1) Law enforcement personnel shall clearly identify and catalog every electronic recording of a custodial interrogation that is recorded pursuant to this section.

(2) If a criminal or delinquent child proceeding is brought against a person who was the subject of a custodial interrogation that was electronically recorded, law enforcement personnel shall preserve the recording until the later of when all appeals, post-conviction relief proceedings, and habeas corpus proceedings are final and concluded or the expiration of the period of time within which such appeals and proceedings must be brought.

(3) Upon motion by the defendant in a criminal proceeding or the alleged delinquent child in a delinquent child proceeding, the court may order that a copy of an electronic recording of a custodial interrogation of the person be preserved for any period beyond the expiration of all appeals, post-conviction relief proceedings, and habeas corpus proceedings.

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(4) If no criminal or delinquent child proceeding is brought against a person who was the subject of a custodial interrogation that was electronically recorded pursuant to this section, law enforcement personnel are not required to preserve the related recording.

Added by 128th General Assembly File No. 30, SB 77, § 1, eff. 7/6/2010.

2933.83 Administration of photo or live lineups.

(A) As used in this section:

(1) "Administrator" means the person conducting a photo lineup or live lineup.

(2) "Blind administrator" means the administrator does not know the identity of the suspect. "Blind administrator" includes an administrator who conducts a photo lineup through the use of a folder system or a substantially similar system.

(3) "Blinded administrator" means the administrator may know who the suspect is, but does not know which lineup member is being viewed by the eyewitness. "Blinded administrator" includes an administrator who conducts a photo lineup through the use of a folder system or a substantially similar system.

(4) "Eyewitness" means a person who observes another person at or near the scene of an offense.

(5) "Filler" means either a person or a photograph of a person who is not suspected of an offense and is included in an identification procedure.

(6) "Folder system" means a system for conducting a photo lineup that satisfies all of the following:

(a) The investigating officer uses one "suspect photograph" that resembles the description of the suspected perpetrator of the offense provided by the eyewitness, five "filler photographs" of persons not suspected of the offense that match the description of the suspected perpetrator but do not cause the suspect photograph to unduly stand out, four "blank photographs" that contain no images of any person, and ten empty folders.

(b) The investigating officer places one "filler photograph" into one of the empty folders and numbers it as folder 1.

(c) The administrator places the "suspect photograph" and the other four "filler photographs" into five other empty folders, shuffles the five folders so that the administrator is unaware of which folder contains the "suspect photograph," and numbers the five shuffled folders as folders 2 through 6.

(d) The administrator places the four "blank photographs" in the four remaining empty folders and numbers these folders as folders 7 through 10, and these folders serve as "dummy folders."

(e) The administrator provides instructions to the eyewitness as to the lineup procedure and informs the eyewitness that a photograph of the alleged perpetrator of the offense may or may not be included in the photographs the eyewitness is about to see and that the administrator does not know which, if any, of the folders contains the photograph of the alleged perpetrator. The administrator also shall instruct the eyewitness that the administrator does not want to view any of the photographs and will not view any of the photographs and that the eyewitness may not show the administrator any of the photographs. The administrator shall inform the eyewitness that if the eyewitness identifies a photograph as being the person the eyewitness saw the eyewitness shall identify the photograph only by the number of the photograph's corresponding folder.

(f) The administrator hands each of the ten folders to the eyewitness individually without looking at the photograph in the folder. Each time the eyewitness has viewed a folder, the eyewitness indicates whether the photograph is of the person the eyewitness saw, indicates the degree of the eyewitness's confidence in this identification, and returns the folder and the photograph it contains to the administrator.

(g) The administrator follows the procedures specified in this division for a second viewing if the eyewitness requests to view each of the folders a second time, handing them to the eyewitness in the same order as during the first viewing; the eyewitness is not permitted to have more than two viewings of the folders; and the administrator preserves the order of the folders and the photographs they contain in a facedown position in order to document the steps specified in division (A)(6)(h) of this section.

(h) The administrator documents and records the results of the procedure described in divisions (A)(6)(a) to (f) of this section before the eyewitness views each of the folders a second time and before the administrator views any photograph that the eyewitness identifies as being of the person the eyewitness saw. The documentation and record includes the date, time, and location of the lineup procedure; the name of the administrator; the names of all of the individuals present during the lineup; the number of photographs shown to the eyewitness; copies of each photograph shown to the eyewitness; the order in which the folders were

presented to the witness; the source of each photograph that was used in the procedure; a statement of the eyewitness's confidence in the eyewitness's own words as to the certainty of the eyewitness's identification of the photographs as being of the person the eyewitness saw that is taken immediately upon the reaction of the eyewitness to viewing the photograph; and any additional information the administrator considers pertinent to the lineup procedure. If the eyewitness views each of the folders a second time, the administrator shall document and record the statement of the eyewitness's confidence in the eyewitness's own words as to the certainty of the eyewitness's identification of a photograph as being of the person the eyewitness saw and document that the identification was made during a second viewing of each of the folders by the eyewitness.

(i) The administrator shall not say anything to the eyewitness or give any oral or nonverbal cues as to whether or not the eyewitness identified the "suspect photograph" until the administrator documents and records the results of the procedure described in divisions (A)(6)(a) to (g) of this section and the photo lineup has concluded.

(7) "Live lineup" means an identification procedure in which a group of persons, including the suspected perpetrator of an offense and other persons not suspected of the offense, is displayed to an eyewitness for the purpose of determining whether the eyewitness identifies the suspect as the perpetrator of the offense.

(8) "Photo lineup" means an identification procedure in which an array of photographs, including a photograph of the suspected perpetrator of an offense and additional photographs of other persons not suspected of the offense, is displayed to an eyewitness for the purpose of determining whether the eyewitness identifies the suspect as the perpetrator of the offense.

(9) "Perpetrator" means the person who committed the offense.

(10) "Suspect" means the person believed by law enforcement to be the possible perpetrator of the offense.

(B) Prior to conducting any live lineup or photo lineup on or after the effective date of this section, any law enforcement agency or criminal justice entity in this state that conducts live lineups or photo lineups shall adopt specific procedures for conducting the lineups. The procedures, at a minimum, shall impose the following requirements:

(1) Unless impracticable, a blind or blinded administrator shall conduct the live lineup or photo lineup.

(2) When it is impracticable for a blind administrator to conduct the live lineup or photo lineup, the administrator shall state in writing the reason for that impracticability.

(3) When it is impracticable for either a blind or blinded administrator to conduct the live lineup or photo lineup, the administrator shall state in writing the reason for that impracticability.

(4) The administrator conducting the lineup shall make a written record that includes all of the following information:

(a) All identification and nonidentification results obtained during the lineup, signed by the eyewitnesses, including the eyewitnesses' confidence statements made immediately at the time of the identification;

(b) The names of all persons present at the lineup;

(c) The date and time of the lineup;

(d) Any eyewitness identification of one or more fillers in the lineup;

(e) The names of the lineup members and other relevant identifying information, and the sources of all photographs or persons used in the lineup.

(5) If a blind administrator is conducting the live lineup or the photo lineup, the administrator shall inform the eyewitness that the suspect may or may not be in the lineup and that the administrator does not know who the suspect is.

(C) For any photo lineup or live lineup that is administered on or after the effective date of this section, all of the following apply:

(1) Evidence of a failure to comply with any of the provisions of this section or with any procedure for conducting lineups that has been adopted by a law enforcement agency or criminal justice agency pursuant to division (B) of this section and that conforms to any provision of divisions (B)(1) to (5) of this section shall be considered by trial courts in adjudicating motions to suppress eyewitness identification resulting from or related to the lineup.

(2) Evidence of a failure to comply with any of the provisions of this section or with any procedure for conducting lineups that has been adopted by a law enforcement agency or criminal justice agency pursuant to division (B) of this section and that conforms to any provision of divisions (B)(1) to (5) of this section shall be

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admissible in support of any claim of eyewitness misidentification resulting from or related to the lineup as long as that evidence otherwise is admissible.

(3) When evidence of a failure to comply with any of the provisions of this section, or with any procedure for conducting lineups that has been adopted by a law enforcement agency or criminal justice agency pursuant to division (B) of this section and that conforms to any provision of divisions (B)(1) to (5) of this section, is presented at trial, the jury shall be instructed that it may consider credible evidence of noncompliance in determining the reliability of any eyewitness identification resulting from or related to the lineup.

(D) The requirements in this section regarding the procedures for live lineups or photo lineups conducted by a law enforcement agency or criminal justice entity do not prohibit a law enforcement agency or criminal justice entity from adopting other scientifically accepted procedures for conducting live lineups or photo lineups that the scientific community considers more effective.

Added by 128th General Assembly File No. 30, SB 77, § 1, eff. 7/6/2010.